

**MINUTES
URBAN COUNTY PLANNING COMMISSION
SUBDIVISION ITEMS**

April 12, 2012

- I. **CALL TO ORDER** - The meeting was called to order at 1:30 p.m. in the Council Chambers, Urban County Government Building, 200 East Main Street, Lexington, Kentucky.

Planning Commission Members Present – Mike Owens, Chair; Mike Cravens, Frank Penn, William Wilson, Will Berkley, Marie Copeland, Lynn Roche-Phillips (arrived at 1:40 PM), and Patrick Brewer. Eunice Beatty and Carla Blanton were absent.

Planning Staff Present – Chris King, Director; Bill Sallee; Tom Martin; Cheryl Gallt; Chris Taylor; Dave Jarman and Denise Bullock. Other staff members in attendance were: Hillard Newman, Division of Engineering; Jim Gallimore, Division of Traffic Engineering; Tim Queary, Division of Environmental Policy; Captain Charles Bowen, Division of Fire and Emergency Services; and Rochelle Boland, Department of Law.

- II. **APPROVAL OF MINUTES** – The Chair noted that there were no prior Planning Commission meeting minutes to be considered at this time.

- III. **POSTPONEMENTS OR WITHDRAWALS** – The Chair asked if anyone on the Commission or in the audience wished to request postponement or withdrawal of an item.

- a. **PLAN 2003-209P: MASTERSON HILLS & MASTERSON STATION, UNIT 10 (6/2/12)*** - located at 2900-2918 and 3000 Spurr Road. (Council District 2) **(EA Partners)**

Representation – Rory Kahly, EA Partners, was present representing the applicant, and requested postponement of PLAN 2003-209P to the May 10, 2012, Planning Commission meeting.

Audience Comment – The Chair asked if anyone in the audience wished to discuss this request for postponement. There was no response.

Action - A motion was made by Mr. Cravens, seconded by Mr. Penn and carried 7-0 (Beatty, Blanton and Roche-Phillips absent) to postpone PLAN 2003-209P to the May 10, 2012, Planning Commission meeting.

- b. **DP 2012-23: GEORGE WEST ESTATE PROP. (HOWARD PROP.)(AMD) (7/26/12)*** - located at 4538, 4568 & 4578 Georgetown Road. (Council District 12) **(Vision Engineering)**

Representation – Matt Carter, Vision Engineering, was present representing the applicant, and requested postponement of DP 2012-23 to the April 26, 2012, Planning Commission meeting.

Audience Comment – The Chair asked if anyone in the audience wished to discuss this request for postponement. There was no response.

Action - A motion was made by Mr. Wilson, seconded by Mr. Brewer and carried 7-0 (Beatty, Blanton and Roche-Phillips absent) to postpone DP 2012-23 to the April 26, 2012, Planning Commission meeting.

- IV. **LAND SUBDIVISION ITEMS** - The Subdivision Committee met on Thursday, April 5, 2012, at 8:30 a.m. The meeting was attended by Commission members: Frank Penn, Eunice Beatty, Mike Owens and Marie Copeland. Committee members in attendance were: Hillard Newman, Division of Engineering; and Jim Gallimore, Division of Traffic Engineering. Staff members in attendance were: Bill Sallee, Tom Martin, Cheryl Gallt, Chris Taylor, Jimmy Emmons, Traci Wade, Barbara Rackers, Dave Jarman and Jim Duncan, as well as Captain Charles Bowen, Division of Fire & Emergency Services and Rochelle Boland, Law Department. The Committee made recommendations on plans as noted.

General Notes

The following automatically apply to all plans listed on this agenda unless a waiver of any specific section is granted by the Planning Commission.

- 1. All preliminary and final subdivision plans are required to conform to the provisions of Article 5 of the Land Subdivision Regulations.*
- 2. All development plans are required to conform to the provisions of Article 21 of the Zoning Ordinance.*

- A. **CONSENT AGENDA - NO DISCUSSION ITEMS** – Following requests for postponement or withdrawal, items requiring no discussion will be considered.

- Criteria:**
- (1) the Subdivision Committee recommendation is for approval, as listed on this agenda; and
 - (2) the Petitioner is in agreement with the Subdivision Committee recommendation and the conditions listed on the agenda; and
 - (3) no discussion of the item is desired by the Commission; and
 - (4) no person present at this meeting objects to the Commission acting on the matter without discussion; and
 - (5) the matter does not involve a waiver of the Land Subdivision Regulations.

* - Denotes date by which Commission must either approve or disapprove plan.

- Requests can be made to remove items from the Consent Agenda:**
- (1) due to prior postponements and withdrawals,
 - (2) from the Planning Commission,
 - (3) from the audience, and
 - (4) from Petitioners and their representatives.

At this time, the Chair requested that the Consent Agenda items be reviewed. Mr. Sallee identified the following items appearing on the Consent Agenda, and oriented the Commission to the location of these items on the regular Meeting Agenda. He noted that the Subdivision Committee had recommended conditional approval of these items. (A copy of the Consent Agenda is attached as an appendix to these minutes).

1. **PLAN 2012-14P: HAMBURG PLACE COMMUNITY, PHASE II (AMD) (6/2/12)*** - located at 2350 Winchester Road (a portion of). (Council District 6) **(Vision Engineering)**

Note: The purpose of this amendment is to add four residential lots.

The Subdivision Committee Recommended: Approval, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers and floodplain information.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection plan and required street tree information.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Greenspace Planner's approval of the treatment of greenways and greenspace.
8. Indicate elevation of regulatory floodplain.
9. Correct note 5.

2. **PLAN 2012-15F: HENRY CLAY SUBDIVISION, UNIT 11, SEC. 3, LOTS 106, 107 & 108 (AMD) (6/2/12)*** - located at 737, 741 and 745 Pioneer Lane. (Council District 5) **(Carroll Engineers)**

Note: The purpose of this amendment is to subdivide two lots into three lots.

The Subdivision Committee Recommended: Approval, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
 2. Urban County Traffic Engineer's approval of street cross-sections and access.
 3. Building Inspection's approval of landscaping.
 4. Addressing Office's approval of street names and addresses.
 5. Urban Forester's approval of required street tree information.
 6. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
 7. Denote name and address of property owner and developer.
 8. Addition of lot frontage to site statistics.
 9. Addition of right-of-way to site statistics.
 10. Remove consolidation information and references.
 11. Denote date of preparation.
 12. Denote all private utility providers.
 13. Denote proposed driveway locations.
 14. Add "Amended" to plan title.
 15. Prior to certification, document ability to comply with Article 4-7(e)(4) of the Land Subdivision Regulations.
3. **PLAN 2012-16F: SANTA BARBARA & LUCILLE CAUDILL LITTLE PROPERTY, UNIT 1A, LOT 1A (AMD) (6/2/12)*** - located at 2400 Old Frankfort Pike and 2407 Mackinwood Drive. (Council District 12) **(EA Partners)**

Note: The purpose of this amendment is to revise the public street right-of-way.

The Subdivision Committee Recommended: Approval, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of Tree Protection Area(s).
6. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
7. Resolve possible need for tree preservation areas along rear of Lots 1 and 2 and riparian zone of Lots 3 and 4.

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4. PLAN 2012-17F: HAMBURG PLACE MALL, UNIT 1, PARCEL 2, LOT 4 (AMD) (6/2/12)* - located at 2145 Sir Barton Way. (Council District 6) **(CLS Engineers)**

Note: The purpose of this amendment is to subdivide one lot into two.

The Subdivision Committee Recommended: **Approval**, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection area(s) and required street tree information.
6. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
7. Verify ability to meet requirements of Article 4-7(e)(4) of the Land Subdivision Regulations.
8. Add easement dimensions per subdivision plat M/746.

5. DP 2012-18: FAMILY CENTER, UNIT 1A, LOT 5 (AMD) (6/2/12)* - located at 1114 East New Circle Road. (Council District 5) **(GRW)**

Note: The purpose of this amendment is to replace the building, add two drive-throughs, and revise access.

The Subdivision Committee Recommended: **Approval**, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
 2. Urban County Traffic Engineer's approval of street cross-sections and access.
 3. Building Inspection's approval of landscaping and landscape buffers.
 4. Addressing Office's approval of street names and addresses.
 5. Urban Forester's approval of tree protection plan.
 6. Division of Fire's approval of emergency access and fire hydrant locations.
 7. Division of Waste Management's approval of refuse collection.
 8. Correct plan title name and type.
 9. Correct note #8.
 10. Denote new sidewalk in street cross-section and along New Circle Road frontage, to the approval of Kentucky Department of Transportation.
 11. Denote rain garden design will be to the approval of the Division of Water Quality.
6. DP 2012-19: BEAUMONT FOREST, UNIT 1, LOT 4E (AMD) (6/2/12)* - located at 2429 Members Way. (Council District 10) **(Carman & Associates)**

Note: The purpose of this amendment is to add building square footage and parking.

The Subdivision Committee Recommended: **Approval**, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm, and sanitary sewers.
 2. Urban County Traffic Engineer's approval of street cross-sections and access.
 3. Building Inspection's approval of landscaping and landscape buffers.
 4. Addressing Office's approval of street names and addresses.
 5. Urban Forester's approval of tree protection plan.
 6. Department of Environmental Quality's approval of environmentally sensitive areas.
 7. Division of Fire's approval of emergency access and fire hydrant locations.
 8. Division of Waste Management's approval of refuse collection.
 9. Addition of record plan designation.
 10. Addition of all proposed and existing easements on the adjacent properties per the previous development plan and record plat.
 11. Delete 12' building line on each side of the property.
 12. Resolve significant tree (36" maple) and possible need for protection measures.
7. DP 2012-20: LEXINGTON CLINIC (AMD) (6/2/12)* - located at 1225 South Broadway. (Council District 11) **(Erdman Company)**

Note: The purpose of this amendment is to add square footage to the surgical center.

The Subdivision Committee Recommended: **Approval**, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm, and sanitary sewers and floodplain information.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection plan.

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6. Division of Fire's approval of emergency access and fire hydrant locations.
7. Division of Waste Management's approval of refuse collection.
8. Addition of all information from current certified development plan.
9. Correct note #5.
10. Addition of required topographic contours.
11. Demonstrate compliance with Article 21-4(e) prior to certification.
12. Denote sanitary sewer trunk line on northern portion of property.

In conclusion, Mr. Sallee said that the items listed on the Consent Agenda could be considered for conditional approval at this time by the Commission, unless there was a request for an item to be removed from consideration by a member of the Commission or the audience to permit discussion.

Consent Agenda Discussion – The Chair asked if anyone in the audience or on the Commission desired further discussion of any of the items listed on the Consent Agenda. There was no response.

Action - A motion was made by Mr. Brewer, seconded by Mr. Penn and carried 7-0 (Beatty, Blanton and Roche-Phillip absent) to approve the items listed on the Consent Agenda.

- B. DISCUSSION ITEMS** – Following requests for postponement, withdrawal and no discussion items, the remaining items will be considered.

The procedure for consideration of these remaining plans is as follows:

- Staff Report(s)
- Petitioner's Report(s)
- Citizen Comments – (a) in support of the request, and (b) in opposition to the request
- Rebuttal – (a) petitioner's comments, (b) citizen comments, and (c) staff comments
- Commission discusses and/or votes on the plan

Note: Ms. Roche-Phillips arrived at this time.

1. DEVELOPMENT PLANS

- a. DP 2012-7: TATTERSALLS APARTMENT DEVELOPMENT (HALLMARK STUDENT DEVELOPMENT) (4/12/12)*
- located at 843 South Broadway and 1200 Red Mile Road (a portion of). (Council District 11) (**Vision Engineering**)

The Subdivision Committee Recommended: **Approval**, subject to the following requirements:

1. Provided the Urban County Council approves ZOTA 2012-3; otherwise, any Commission action of approval is null and voided.
2. Urban County Engineer's acceptance of drainage, storm, and sanitary sewers.
3. Urban County Traffic Engineer's approval of street cross-sections and access.
4. Building Inspection's approval of landscaping and landscape buffers.
5. Addressing Office's approval of street names and addresses.
6. Urban Forester's approval of tree protection plan.
7. Division of Fire's approval of emergency access and fire hydrant locations.
8. Division of Waste Management's approval of refuse collection.
9. Addition of proposed lotting.
10. Clarify existing tree canopy to remain.
11. Denote Board of Adjustment's approval of dimensional variances.
12. Extend sidewalk to connect to South Broadway.
13. Denote actual height of building in feet.
14. Provided the Planning Commission grants a waiver to Articles 6-8 and 6-10(b) of the Land Subdivision Regulations.
15. Kentucky Department of Transportation's approval for the proposed improvements to South Broadway.
16. Discuss proposed building envelopes.
17. Discuss ability to meet required tree canopy.
18. Discuss the proposed South Broadway access improvements, per ZDP.

Development Plan Presentation – Mr. Martin directed the Commission's attention to the Tattersalls Apartment Development (Hallmark Student Development), which is located at 843 South Broadway and on a portion of 1200 Red Mile Road. He noted that the Commission had previously approved a zone change for this property at their November, 2011 hearing.

Mr. Martin presented a map showing the overall area, and oriented the Commission to the surrounding street system. He said that the subject property is located just off South Broadway near Red Mile Road. Within the

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general vicinity there is the Red Mile Harness Track and the new student housing developments along Angliana Avenue. He noted that the subject property is near the corner of Curry Avenue and South Broadway.

Mr. Martin directed the Commission's attention to the rendered development plan to further orient them, and pointed out the location of South Broadway, Curry Avenue, and the proposed access connection to Curry Avenue adjacent to the Red Mile Track. He said that the proposed rendering is one of several revisions that the staff had received during the time it had been postponed. He then said that on the approved zoning development plan, the applicant had proposed 4-story apartment buildings with interior court yards. Subsequently, the final development plan had proposed the same layout; however, the applicant is now proposing a townhouse development with their revised submission. He then said that the townhouse units are concentrated in the same location as the approved layout. The applicant is now proposing 3-story townhouses, and has significantly reduced the total number of dwelling units and off-street parking on this site. He said that the original approval was for 272 apartment units with 832 bedrooms and 745 parking spaces. The proposed development is now proposing 152 townhouse units with 608 bedrooms and 607 parking spaces. With the latest revision there will be an additional reduction in the parking spaces proposed.

Mr. Martin pointed out on the rendering the office/community recreational area proposed along South Broadway, the proposed underground detention between the subject property and Curry Avenue and the primary gated access on South Broadway adjacent to the former Coach House. He explained that the reason for choosing the particular location for the access was due to the topography being at grade, which would allow the turning movements to and from South Broadway to be quicker. He then said that the applicant is also proposing a rear access, which would connect to Curry Avenue. He noted that the rear accesses will be gated.

Mr. Martin directed the Commission's attention to the revised staff recommendation, and said that since the Subdivision Committee meeting, the applicant had addressed many of the deficiencies and issues that were forwarded to the Planning Commission with the newest submission. He said that the staff can now offer the following revised recommendations.

The Staff recommended: **Approval**, subject to the following conditions:

1. Provided the Urban County Council approves ZOTA 2012-3; otherwise, any Commission action of approval is null and voided.
2. Urban County Engineer's acceptance of drainage, storm, and sanitary sewers.
3. Urban County Traffic Engineer's approval of street cross-sections and access.
4. Building Inspection's approval of landscaping and landscape buffers.
5. Addressing Office's approval of street names and addresses.
6. Urban Forester's approval of tree protection plan.
7. Division of Fire's approval of emergency access and fire hydrant locations.
8. Division of Waste Management's approval of refuse collection.
9. Addition of proposed lotting.
10. Clarify existing tree canopy to remain.
11. Denote Board of Adjustment's approval of dimensional variances.
12. Extend sidewalks to connect to South Broadway proposed new street.
13. Denote actual height of building in feet.
14. Provided the Planning Commission grants a waiver to Articles 6-8 and 6-10(b) of the Land Subdivision Regulations.
15. Kentucky Department of Transportation's approval for the proposed improvements access to South Broadway.
16. ~~Discuss proposed building envelopes~~ Reduce the size of the building envelopes proposed to a maximum of 10'.
17. ~~Discuss ability to meet required~~ Addition of tree and tree canopy information (between public street and Red Mile Track) as per previous submission.
18. ~~Discuss the proposed South Broadway access~~ Resolve conflict with sidewalk improvements at 472 Curry Avenue, per ZDP.
19. Remove all temporary turn around information from plan.

Mr. Martin said that conditions #2 through #8 are standard sign-off conditions from the different divisions of the LFUCG. He then said that condition #1 related to the Commission's recent approval of a text amendment to Article 9 of the Zoning Ordinance. He said that the text amendment to Article 9 had been forwarded to the Urban County Council, and if approved, it would allow Group Residential Projects in the High Rise Apartment (R-5) zone.

Mr. Martin briefly explained the remaining conditions, and noted that conditions #9 through #13 are "cleanup" conditions; and condition #14 is a waiver request to Articles 6-8 and 6-10(b) of the Land Subdivision Regulations. He said during the Committee meeting, there was a discussion concerning the heavily treed areas on the property, and the applicant is attempting to retain the Bur Oak tree and a Sycamore tree near the entrance of the property. However, as for the remaining trees on this property, those would be removed. He said that there was concern as to whether or not this development would comply with the tree canopy requirements, and with the latest submission, the applicant has demonstrated that they can meet those tree canopy requirements. In addition to what they have shown, the Ordinance

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allows the applicant to count the existing tree canopy between the subject property and those along Curry Avenue. He said that the applicant would need to clarify that the existing tree canopy would remain on the site (condition #10).

Mr. Martin gave a brief description of conditions #11 through #19, and said that the Board of Adjustment had approved several dimensional variances for this property, and the applicant would need to denote those variances on the development plan (condition #11). He then said that the proposed new street does not extend the sidewalk being from the property; therefore, the applicant would need to illustrate that on the development plan (condition #12), as well as denoting the actual height of the building in feet (condition #13).

Mr. Martin noted that the applicant had requested a waiver to Articles 6-8 and 6-10(b) of the Land Subdivision Regulations (condition #14) and this will be further discussed later in the meeting. He said that, as part of this request, the Kentucky Department of Transportation's (KYDOT) must give their approval for the proposed access to South Broadway (condition #15), and it's the staff's understanding that the Division of Traffic Engineering, the Kentucky Department of Transportation and the applicant had met and came to an agreement that the proposed access entrance on the current submission was appropriate.

Mr. Martin said that, on the previous submittal, heavy landscaping was being shown between the public street and the Red Mile Track. That landscaping design is a very important part of this development plan because it will help shield and minimize any distractions that may occur from the site on to the track. He said that this aspect of the development was removed from the current submittal and needs to be added back on the development plan (condition #17). Mr. Martin said that, in reviewing the development plan, there is a slight conflict with the sidewalk improvements at 472 Curry Avenue. He then said that the sidewalk encroaches into private property and the applicant will need to resolve that issue (condition #18). He directed the Commission's attention to the proposed street connection between Curry Avenue and Red Mile Road. He said that the current submission proposes a temporary turn around near Red Mile Road, and the intent of the proposed street is to make a connection from Curry Avenue to Red Mile Road. The applicant will need to delete the "temporary" nature of the turnaround information from the development plan (condition #19).

Waiver Report - Mr. Martin directed the Commission's attention to the staff report and said that the applicant had requested two waivers to the Land Subdivision Regulations based on severe site restraints as their justification.

Mr. Martin said that the first requested waiver is to Article 6-8 of the Land Subdivision Regulations that governs Street Geometrics. What the applicant had proposed for the cross-section is not a typical cross-section for a local street (exhibit 1). He said that the Land Subdivision Regulation requires a local street to be 40 feet of pavement with a 7 foot utility strip and a 4 foot sidewalk on each side. He then said that the Land Subdivision Regulation also requires a curve to have a minimum of a 250 feet radius. The applicant had cited due to the narrowness of the area and the necessary landscaping that is required, they are proposing for the road curve radius to be less than 100 feet in width, with a 6 foot sidewalk and a 6 foot utility strip on the south side of the proposed street. On the north side of the road, the applicant is proposing a 2 foot utility strip with no sidewalk. He said that their justification for this type of proposal is to help ensure any pedestrian activity that could pose a negative impact on the horses and the races be away from the horse track.

Mr. Martin then said that, in conjunction with the 2 foot utility strip, they are requesting a waiver to Article 6-10(b) of the Land Subdivision Regulations that governs Street Trees. He said that street trees are often planted within the 7 foot utility strip; however, the Land Subdivision Regulations offer the option to plant the street trees in a 5 foot easement on the outer side of the sidewalk and right-of-way. He then said that the staff is confident that there is plenty of room along the north side of the street to establish such a 5 foot easement. This will complement their effort in providing additional landscape to help shield the horse track from this development.

Mr. Martin said that the staff is recommending approval of the requested waiver to Article 6-8 of the Land Subdivision Regulations for the following reasons:

1. The waiver will have no adverse impact on public safety-consistent with the intent of the Land Subdivision Regulations.
2. Strict enforcement of the required street geometrics would constitute a hardship for the applicant due to the site constraints.
3. The waiver request meets the standards set under Article 1-5(c) for Infill & Redevelopment Facilitation.

However, the staff is recommending disapproval of the requested waiver to Article 6-10(b) of the Land Subdivision Regulations, for the following reason:

1. There is adequate room for a 5' T.P.E. as allowed by Article 6-10(2)(b) of the Land Subdivision Regulations therefore there is no hardship for the applicant.

Mr. Martin concluded by saying that the Subdivision Committee reviewed the applicant's request, and recommended approval, subject to the following conditions:

1. Provided the Urban County Council approves ZOTA 2012-3; otherwise, any Commission action of approval is null and voided.

2. Urban County Engineer's acceptance of drainage, storm, and sanitary sewers.
3. Urban County Traffic Engineer's approval of street cross-sections and access.
4. Building Inspection's approval of landscaping and landscape buffers.
5. Addressing Office's approval of street names and addresses.
6. Urban Forester's approval of tree protection plan.
7. Division of Fire's approval of emergency access and fire hydrant locations.
8. Division of Waste Management's approval of refuse collection.
9. Addition of proposed lotting.
10. Clarify existing tree canopy to remain.
11. Denote Board of Adjustment's approval of dimensional variances.
12. Extend sidewalks to connect to proposed new street.
13. Denote actual height of building in feet.
14. Provided the Planning Commission grants a waiver to Articles 6-8 and 6-10(b) of the Land Subdivision Regulations.
15. Kentucky Department of Transportation's approval for the proposed access to South Broadway.
16. Reduce the size of the building envelopes proposed to a maximum of 10'.
17. Addition of tree and tree canopy information (between public street and Red Mile Track) as per previous submission.
18. Resolve conflict with sidewalk improvements at 472 Curry Avenue.
19. Remove all temporary turn around information from plan.

Planning Commission Questions – Mr. Penn asked if the development plan proposes a street connection or a turnaround. Mr. Martin said that the development plan proposes a temporary turnaround, and that label will need to be removed. He then said that the intent is to have a connection between Curry Avenue and Red Mile Road. This connection will be based on the timing of the Red Mile mixed-use development.

Mr. Penn then asked if the tree canopy is conditioned on the easement at the backside of the track. Mr. Martin replied negatively, and said that the applicant is confident that they can meet the tree canopy requirement without including that area in the calculations.

Mr. Brewer asked if the entrance and exit on South Broadway is a right-in and a right-out only. Mr. Martin explained that the entrance into the property is a right-in only, but exiting the property would have both right and left turn movements. Mr. Brewer then asked if the Division of Traffic Engineering was agreeable to this traffic movement. Mr. Martin replied that the Division of Traffic Engineering was agreeable to this access point, as was the Kentucky Transportation Cabinet.

Ms. Copeland said that, in reviewing the exhibit (Typical Section "B-B"), there is a 4 foot sidewalk being shown under the tree with a 2-foot sidewalk right next to the plank fence, and asked if that is correct. Mr. Martin replied affirmatively, and said that the 4 feet of the sidewalk is in the right-of-way and the remaining 2 feet would be in an easement that would be established on the subject property. Ms. Copeland said that, even though the applicant is installing 6 feet of concrete sidewalk, one side is against a wall, so there is really only 4 feet of useable sidewalk. She said that the 2' sidewalk is right up against the fence, so people won't walk in that area because they swing their arms; therefore, there is still only a 4 foot sidewalk on a 6 foot pad. She said that with the height of the fence at 4 feet, we lose 2 feet of concrete from people swinging their arms.

Mr. Penn asked how close is the property entrance to the restaurant entrance, and who would have the right-of-way when exiting on South Broadway. Mr. Martin said that the entrances are in close proximity to each other and as for who has the right-of-way would be determined by who pulls out first. He then said that there is a lot of mixed full access along South Broadway and undoubtedly there will be times of conflict. Mr. Penn asked if the Kentucky Department of Transportation believed that this would be alright. Mr. Martin said that the KYTC agreed that this is the best of a bad situation. Mr. Penn said that he doesn't understand why there could not be a joint access with the restaurant. Mr. Martin said that that would be a better solution, but the applicant and the adjoining property owner could not reach any accommodations at this time.

Mr. Owens asked if the rear access would be gated. Mr. Martin replied affirmatively. Mr. Owens then asked when would the new road connection be made to Red Mile Road. Mr. Martin said that the timing of the connection is currently unknown. He said that there is a pending zone change for the Red Mile property that would impact this property, and it is noted on the development plan, plus there is a TIF that is associated with this development that would allow improvements to be made. He said that the timing of the street connection is contingent upon the Red Mile development.

Ms. Roche-Phillips asked if the public street exists and it is part of this development. Mr. Martin said that the road is a proposed public street and the applicant would build the portion of the road that is shown on their development plan. Ms. Roche-Phillips then asked if the property line comes back to the edge of the Red Mile track and would the applicant be using the rear portion of that property. Mr. Martin said that, in reality, the area in question is on the Red Mile property, and a plat would be needed to dedicate the road. Ms. Roche-Phillips said that she doesn't

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understand why the Commission is even contemplating the waiver request when the road is not a part of this development plan. Mr. Martin said that the road is part of the development plan, noting that this request is also a preliminary subdivision plan, which shows the infrastructure and allows the waiver to be granted. He then said that, when the road is dedicated, the record plat would reflect that it was built according to the Commission's approval. Ms. Roche-Phillips said that she is still not clear, and asked what is being subdivided. Mr. Martin said that this property could be subdivided, if the applicant chooses to, and if so, they would need a final subdivision plan. He said that, prior to the Commission approving the text amendment, each building had to be on a separate lot in order to comply with the requirements of the R-5 zone. He said that when this request was first submitted, it had to be submitted as a preliminary subdivision plan, and at this point, to create the road, it still needs to remain as a preliminary subdivision plan. Ms. Roche-Phillips asked if the only thing being subdivided is the dedication of the road, which is on the Red Mile property. Mr. Martin said that that was correct, noting the applicant does have an agreement with the Red Mile property for the roadway.

Representation – Chris Westover, attorney, and Matt Carter, Vision Engineering, were present representing the applicant. Ms. Westover said that, after many hours of conversations and meetings, they wanted to thank the staff for their help. She then said that they are in agreement with the staff's conditions and their recommendations, and requested that the Planning Commission approve the development plan.

Ms. Westover said that, as far as the timing for the new road, the Red Mile is trying to actively rezone the property near Nelms Avenue. She then said that they would be requesting a postponement of that zone change at the April hearing for one month. That zone change, if approved, would give Red Mile more land to develop, and at which time, the continuation of the road could connect to Red Mile Road. She said that, without a developer, the best alignment of the street is undetermined at this time, and this is the reason the street will not be constructed. She then said that her client does not control that property, so it is anticipated that the Planning Commission would be seeing a request in the near future.

Ms. Westover illustrated a conceptual landscape design on the overhead, and explained what they would be proposing for the area between the Red Mile property and the new road. She said that the Red Mile property is in agreement with their proposal, and they are most vigilant and concerned with making sure there is adequate protection for the horses and track, and they want to make sure every precaution is taken to ensure safety. She said that they are proposing an extensive tree planting area in the curve of the new road, and a heavy landscape buffer down the side of the road toward Red Mile Road. She then said that this would help shield the track and horses from lights, traffic and the like. Also, the view from the grand stand would be more attractive than seeing a road.

Ms. Westover said that they had requested the waiver to Article 6-10(b) of the Land Subdivision Regulations was done out of an abundance of caution, and they are agreeable to withdraw the request since it is not needed. She then said that her client has an agreement with Red Mile to provide a planting and maintenance easement, which would take care of all the landscaping on the Red Mile property. There is plenty of room in this area to have adequate tree coverage.

Planning Commission Questions – Mr. Penn asked if the Tattersall's property would be used to meet the tree canopy requirement. Mr. Westover replied negatively. Mr. Penn asked if the planting toward Curry Avenue would or would not be counted in the tree canopy requirements. Ms. Westover said that the area adjacent to Red Mile property would not be counted, but the areas that abut the applicant's property would count toward the tree canopy requirements.

Mr. Penn asked if the buildings would be occupied, creating traffic movement, before the connection is made to Red Mile Road. Ms. Westover replied that that is possible, but a connection would be made to Curry Avenue, allowing access on over to Versailles Road. Mr. Penn then asked if the connection is not made would a turnaround be provided. Ms. Westover replied negatively, but said that there would be a provision for a temporary turn around at the driveway that is closest to the Red Mile property. Mr. Penn asked if the connection to Curry Avenue would be made before buildings permit are issued. Ms. Westover replied affirmatively. Mr. Penn said that, if the other property is not rezoned, then all of the people who occupy those buildings would either exit on Curry Avenue or South Broadway, which is not signalized. Ms. Westover said that the original preliminary development plan did not have access to Curry Avenue and the proposed plan is a greater improvement for this area. She then said that the proposed plan has decreased in the number of units and the number of beds. Temporarily, it should be more than adequate to accommodate the traffic from this development. Ms. Westover submitted a series of photographs of South Broadway, and said that these pictures were taken at different times of the day. She then said that depending on the time there are gaps in the traffic movement, but the traffic can be problematic also. She then said that South Broadway offers a middle lane for left and right turning movements. She noted that the Kentucky Transportation Cabinet and the Division of Traffic Engineering had approved this entrance to be a full access. She said that this development is an urban infill situation and there are already a number of full service accesses along South Broadway. She then said that this development should not be generating high traffic since during the peak hour, the students would be using the sidewalk and the pedestrian bridge over to the UK campus.

Mr. Brewer said that he is not sure when the photographs were taken, but any time he had been on South Broadway the traffic has always been backed up. He then said that he is not an expert, and the Kentucky Transportation Cabinet has said that this access is appropriate, but in his opinion, it is wrong.

Mr. Brewer asked how tall are the trees and buildings that are closet to the Red Mile property, as the lighting from the development could cause the horses to be distracted. Ms. Westover said that she believed the height of the buildings is 35 feet, noting that these buildings are 3 stories. She then said that they are proposing a number of large species trees throughout the property, and they can take into consideration the placement and species of those trees. Mr. Brewer said that if the tree takes 10 years to mature it would not do much good for the track, and asked if the Red Mile property had weighed in on this issue, and if so are they are in agreement. Ms. Westover said that they have shown the Red Mile property owner their landscape design and they are in agreement with the concept. Mr. Carter said that according to the engineer who is designing the lighting, the foot candles at the property line would "read zero" from this development. Mr. Brewer asked if this refers to the common lighting as opposed to the apartment lighting. Mr. Carter replied that it accounts for the parking lot lighting and back lighting from the buildings, but it would not account for vehicular lighting. Mr. Brewer said that he is concerned with their night racing and since it takes time for trees to mature, he asked if, there are parties on the balconies, would the buildings closest to the Red Mile property be visible from the track. Ms. Westover explained that the building near the Red Mile property would have balconies toward the interior portion of the development and not oriented toward the Red Mile property. Mr. Brewer said that there are a number of balconies that could have a line of sight to the track. Ms. Westover replied that perhaps this may be true, but the Red Mile property owner has seen their landscaping proposal and they approve the design. She said that the Red Mile property has the most substantial stake in the viability and success of the track. Mr. Carter said that there are already existing apartments that back up to the Red Mile property, so they are familiar with the interaction of students and horses.

Mr. Berkley asked what are the distances between the access point and the traffic signals. Mr. Carter said that the distance to Angliana Avenue is +/- 400 feet and to the intersection of Red Mile Road is +/- 900 feet. Mr. Brewer said that the Commission should consider that the traffic from the Newtown Pike extension would also be traveling on South Broadway. As a result of that project, there will be an increase in traffic in the future, and Mr. Berkley asked if the applicant would consider a right-in and right-out only along South Broadway. Ms. Westover said that the KYTC and Traffic Engineering are requiring a full access at this location, and everyone understands that the left turn onto South Broadway towards town is only feasible at certain times of the day. She then said that this is consistent with every other development up and down this area. Based upon the timing of the traffic lights, the traffic volume and the ability for alternative routes, there will be more choices. Mr. Berkley said that having that connection is very critical and this property has an entrance, but it's not the same type of use as the others along South Broadway. He then said that he has a real problem with a left out onto South Broadway. Ms. Westover said that they had repeatedly discussed this project with Kentucky Transportation Cabinet, and the Division of Traffic Engineering, and they felt sufficiently secure with approving a full access point at this location. She then said that Mr. Carter had met with both agencies onsite and at that time, they had discussed the need for a right turn lane, but it was determined a right turn lane was not warranted at this time.

Mr. Owens said that since the last time the Commission had reviewed this request there has been a lot of discussion concerning the development and the merits with a left turn out of the site, as opposed to a right-in and right-out only. He asked if the Division of Traffic Engineering staff could share their thoughts. Mr. Gallimore said that everyone believed that making left turns out of the development will be impossible at certain times of the day. He then said that people will quickly learn when those times are and not try to make a left turn, but rather turn right onto South Broadway or use the rear connection when it is completed. In reality, there will be people who try to turn left on South Broadway regardless of safety. He said that South Broadway, like most of the major arterial roads, have AM peak times and PM peak times. He then said that they are now considering the Noon hour peak times, which are from 11 AM to 1 PM. The timing of the signalized lights is different for each peak time throughout the day. He said that during the AM peak time or the PM peak time a "plug flow system" is used to push the traffic in or out of town, but for the noon peak hours the traffic is evenly distributed and the plug flow system can not be used. Mr. Gallimore said that the proposed access location is in a good area since it is located between two other signals. He then said that this would create gaps in the traffic flow to allow left turn movements, especially when traffic flow is low, which was indicated in the photographs previously submitted by Ms. Westover. He then said that South Broadway does have a center lane to allow cars to hover until merging into the traffic, and without it, it would be even more difficult for traffic to make a left turn on South Broadway. Mr. Gallimore said that this property will have alternate routes and noted that the Commission had previously approved another development not to far from this development that only had access to South Broadway.

Mr. Penn said that if Curry Avenue is not widened and parking is allowed on both sides, this road will turn to one lane, making traffic difficult until another connection is made. He asked what measures will be taken for the traffic on Curry Avenue. Mr. Gallimore said that for an existing situation like Curry Avenue a neighborhood petition would need to be submitted to Council, which would then consider whether or not to eliminate parking on one side or reduce it on the street. He then said that even though people do not like the congestion, they also do not like the idea of having less off street parking. The City can not eliminate parking without it being a safety hazard, at which time, the Division of Fire and Emergency Services would remove the parking for a fire lane. Mr. Penn said that

there are commercial uses on Curry Avenue, not just residential uses. Mr. Gallimore said that to remove or decrease parking it would still need have the same process of submitting a petition and having a Council vote. Mr. Penn said that the students would weave in and out of traffic on Curry Avenue. Mr. Gallimore replied affirmatively, and said that in the past 4 years in areas of new subdivisions, the staff lobbies for parking restrictions in the beginning phases of development. He then said that people do not like to move into an area with parking on both sides of the street and then have the city come in to place parking restrictions on that new street.

Mr. Owens asked what is the vehicle stacking situation at Angliana Avenue. Mr. Gallimore said that there are stacking problems for both Angliana Avenue and Red Mile Road, depending on the time of the day.

Ms. Westover said that, although there is not a public street constructed between the Tattersall property and Red Mile Road, there is a driveway on the Red Mile property that can be used temporarily. There is another route that can be taken besides Curry Avenue.

Ms. Copeland asked if this development could become faculty housing. Ms. Westover replied affirmatively, and said that this is a multifamily housing development, so in theory, anyone could live here. She then said that the developer will be marketing this property toward students. Ms. Copeland said that, at this time, there is no faculty housing in place that is close to the University of Kentucky. She then said that the Commission should keep in mind that students are in school during the AM and PM peak times. She then said that this would diminish the in and out traffic problems on South Broadway. If this property stays as student housing, their habits and schedules will be different.

Ms. Copeland asked if the original zoning development plan was available to show a comparison, and asked if these units could be sold. Ms. Westover said that this property will be on one lot and will not be subdivided and sold individually. She then said that these units could be turned into condominiums, but they can not be subdivided. Ms. Copeland then asked for a brief explanation as to why the text amendment is being initiated for this property. Ms. Westover said that the new text amendment would allow this development to take place on one lot, where the current Zoning Ordinance required each principle structure to be on its own lot. She then said that on the original proposal, under the R-5 zone, each building had to meet its own setback restrictions. She then said that it would be impossible to have this townhouse development under the current regulations because each lot would need to stand on its own.

Mr. Berkley asked if the original entrance was approved as a full access point to South Broadway. Ms. Westover replied affirmatively.

Planning Commission Discussion – Mr. Owens said that the full access to South Broadway was very problematic to him, but he is alright with a right-in and right-out only. He was also concerned with there being no connection to Red Mile Road.

Mr. Berkley said that he is fine with a right-in and right-out, but he had a problem with the left turn movement on to South Broadway. He then said that if this is the case, then he could not vote in favor of this request.

Mr. Brewer said that he is torn because the traffic experts have clearly stated that this access will be alright. He then said that for the Commission to make a stand now, it should have been the case all along. He understood how this area can be and the possibilities of accidents from turning left out of the subject property. He believed this will be a fiasco and yet he had a hard time “drawing the line in the sand.”

Mr. Penn said that he has the same concerns, but he is also concerned with traffic on Curry Avenue. He then said that with the businesses on Curry Avenue, the parking makes the roadway go down to one lane because there is parking allowed on both sides of the street. By the time the buildings are occupied, there will only be two ways to exit the area, and to make a left turn on South Broadway would not be safe, if the Red Mile Road connection is not made. He said that it was hard for him to believe that the traffic professionals had agreed to this proposal.

Mr. Penn said that another problem is the restaurant entrance being so close to this entrance, and asked who would have the right-of-way on South Broadway. He then said that he did not see how this will work, and when this property was rezoned a joint entrance had been discussed. He didn't understand why this entrance issue could not be resolved, especially with 800 bedrooms being proposed. Ms. Westover clarified that the number of beds would be 600 and not 800. She then said that the students who would be occupying this area would have access to the driveway that leads to Red Mile Road; it just would not be open to full public access. Mr. Penn asked why was the turn around being discussed, if that is the case. Ms. Westover said that the turn around is proposed to control access to the driveway. She said that the rendering does not show the driveway because it is off site. The driveway will be open to the students; it just won't be open to the general public. She said that the students can use South Broadway, Curry Avenue or the driveway with a security card access.

Mr. Cravens asked if the applicant would be willing to restrict the left turn movement on South Broadway. Ms. Westover said that this is part of the Red Mile TIF that the Urban County Council had recently approved to expand

the development area. She then said that if the Commission approves this request, then they would be able to build this development which in turn triggers the TIF. In the near future, the Red Mile area would be the first TIF to be on the ground and it's an important piece to the overall economic development picture. Ms. Westover said that in terms of the left turn on South Broadway, the state and the local traffic agencies have determined that this proposal is appropriate and have given their approval. She then said that the students living in this area will figure out very quickly what times a left turn can be made. Moreover, most of the students would be walking or biking to campus or to the nearby restaurants. Ms. Westover said that her clients believed it is essential to have the left turn in and out available and for the location of the entrance to be next to the clubhouse, which would provide a great entry feature into the property.

Mr. Wilson said that he is conflicted with this project. He then said that the traffic professionals have said that this proposal is alright and this development is mirroring the other developments along South Broadway. He indicated that he is uncomfortable, but he would support this plan.

Audience Comment – The Chair asked if anyone in the audience wished to discuss this request. There was no response.

Action - A motion was made by Mr. Wilson to approve DP 2012-7: TATTERSALLS APARTMENT DEVELOPMENT (HALLMARK STUDENT DEVELOPMENT), for the reasons provided by the staff.

Discussion of Motion – Mr. Owens asked if the motion on the floor included the waiver as present by the staff. Mr. Wilson replied affirmatively.

Mr. Penn said that he did not understand why the left turn is needed, and that they are willing to take the risk. He then said that it doesn't make sense to him to have the left turn out of this property. It doesn't matter if other developments have a left turn, what matters is this plan. He said that to have a left turn on South Broadway is an extremely dangerous movement. He then said that he hates to see this plan not move forward, but he is having a hard time with creating a situation that will cause accidents or fatalities. He said that you can not bet on a 20 year old in not doing something, because they will surely try it. He said that this is a good plan and once the connection to Curry Avenue is made, a lot of things will work themselves out. He then said that the left turn out of this property really concerned him and he can not support this request as long as the left turn is allowed. He did not believe all of the other wrongs on South Broadway justify this proposal.

Mr. Cravens asked if the Commission could amend the motion to only allow right turns. Ms. Copeland said that the Division of Traffic Engineering could place a restriction for no left turns on South Broadway. Mr. Cravens said that the traffic engineer had spoken on that issue.

Mr. Owens asked if Mr. Wilson would like to amend the motion or leave the motion as is. Mr. Wilson said that the thing that is bothering him the most is the experts are telling the Commission this is alright. He then said that he would like to leave the motion as is.

Ms. Roche-Phillips said that the experts are giving the Commission advice, and they are debating their advice.

She then seconded the motion. The motion failed 3-5 (Cravens, Brewer, Owens, Penn and Berkley opposed; Beatty and Blanton absent).

Action - A motion was made by Mr. Cravens to approve DP 2012-7: TATTERSALLS APARTMENT DEVELOPMENT (HALLMARK STUDENT DEVELOPMENT), subject to the conditions as listed by the staff, adding a condition to restrict to the access to South Broadway to right-in and right-out only; including granting the waiver to Articles 6-8 and 6-10(b) of the Land Subdivision Regulations, as recommended by the staff.

Ms. Westover said that Article 21 requires the Commission to list their reasons for modifying the conditions. Mr. Cravens said that the reason for modifying the conditions is due to safety, traffic and public health concerns and ensuring the welfare of the residents who will be living there.

The motion was seconded by Mr. Penn, and passed 8-0 (Beatty and Blanton absent).

- b. DP 2012-17: HAMBURG PLACE MALL, UNIT 1, PARCEL 2, LOT 4 (AMD) (6/2/12)* - located at 2145 Sir Barton Way. (Council District 6) **(Barrett Partners)**

Note: The purpose of this amendment is to add a 5,100 square-foot restaurant.

The Subdivision Committee Recommended: **Approval**, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm, and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.

* - Denotes date by which Commission must either approve or disapprove plan.

4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection plan.
6. Division of Fire's approval of emergency access and fire hydrant locations.
7. Division of Waste Management's approval of refuse collection.
8. Correct purpose of amendment note.

Development Plan Presentation – Mr. Taylor identified the development plan on the regular meeting agenda, and noted that the subject property is located at 2145 Sir Barton Way. He presented a rendering of this final development plan, and oriented the Commission to the overall area and to the surrounding street system. He then reported that the subject property is located between Sir Barton Way and Pink Pigeon Parkway, just off Man O' War Boulevard. The Meijer Store is to the rear of the proposed site and, in the general vicinity, are several other existing restaurants.

Mr. Taylor said that the purpose of this amendment is to add a 5,100 square-foot restaurant at the corner of Alysheba Way and Paul Jones Way. He indicated that there are existing restaurants, which access both Alysheba Way and Paul Jones Way, and the applicant would be utilizing some of the existing parking in front of the Meijer Store to construct this new restaurant. The access into the restaurant would be provided via Alysheba Way, as well as through the Meijer parking lot. There would be one-way drive-through circulation through this site.

Mr. Taylor said that the Subdivision Committee had recommended approval of this request, subject to the conditions listed on today's agenda. He then said that this plan would have been eligible for the Consent Agenda, but the applicant had submitted a revised plan that increased the size of the restaurant by 700 sq. ft. and added 3 parking spaces. He then said that with the increased square footage, this item would not have qualified as a minor amendment. Thus, the staff felt it was important to refer this development plan request back to the Commission for their review.

Representation – Tony Barrett, Barrett Partners, was present representing the applicant. He thanked the staff for allowing this request to be resubmitted on such late notice, and with that he said that they are in agreement with the staff recommendations and requested approval.

Commission Questions – Ms. Copeland asked why this proposal needed an additional 700 square feet. Mr. Barrett said that Frisch's Big Boy restaurant uses two types of regional models, and it was determined that Lexington fits the model for the Cincinnati territory, which has larger stores. They believed it would attract a larger clientele. Ms. Copeland then asked if his clients are expecting more traffic at this restaurant. Mr. Barrett replied affirmatively, and said that everyone in the Lexington market is generally familiar with Frisch's Big Boy restaurants.

Audience Comment – The Chair asked if anyone in the audience wished to discuss this request. There was no response.

Action - A motion was made by Mr. Brewer, seconded by Mr. Cravens, and carried 8-0 (Beatty and Blanton absent) to approve DP 2012-17: HAMBURG PLACE MALL, UNIT 1, PARCEL 2, LOT 4 (AMD), subject to the conditions listed on today's agenda.

- C. PERFORMANCE BONDS AND LETTERS OF CREDIT** – Any bonds or letters of credit requiring Commission action will be considered at this time. The Division of Engineering will report at the meeting.

Action - A motion was made by Mr. Cravens, seconded by Mr. Penn, and carried 8-0 (Beatty and Blanton absent) to approve the release and call of bonds as detailed in the memorandum dated April 12, 2012, from Ron St. Clair, Division of Engineering.

Note: A recess was declared by the Chair at 2:53 p.m. and the meeting re-convened at 2:56 p.m.

- V. STAFF ITEMS** – The Chair will announce that any item a Staff member would like to present will be heard at this time.

- A. DP 2012-16: WALLER PROPERTY (AMD) – located at 1528, 1532 and 1534 North Limestone.
(Council District 1) **(Midwest Engineering, Inc.)**

Development Plan Presentation – Mr. Sallee directed the Commission's attention to a rendered version of a minor amended Development Plan for the Waller Property. This property is located at 1528, 1532 and 1534 North Limestone. He noted that the staff had previously distributed a list of Staff Recommendations; the November 18, 2010, minutes, when the Planning Commission approved the rezoning of and the zoning development plan for this property, as well as the staff exhibit that was presented to the Commission at that hearing; and the staff exhibit titled "Recommendations" from the Central Sector Small Area Plan.

Mr. Sallee then directed the Commission's attention to an aerial photograph of the subject property and said that this site is located on North Limestone, just south of New Circle Road. He indicated that the new CVS Drug Store is to the north; the

Shadowlawn subdivision is to the south; and directly across that street from the site is a Goodwill outlet, a carwash and an automobile dealership.

Mr. Sallee presented the zoning development plan from the November 18, 2010 hearing, and said that the Commission had previously approved a petition for a zone map amendment from a Single Family Residential (R-1C) zone to a Wholesale and Warehouse Business (B-4) zone. He then said that the applicant had originally proposed small warehouse uses and shops of special trade, both which are allowable uses for the B-4 zone. He noted that the subject property fronts North Limestone and there will be a single access into the site. He said that the original drainage design was proposed to be at the rear of the property, adjacent to the residential area along Loneta Avenue.

Mr. Sallee said that the minor amended development plan somewhat mirrors the final development plan; the proposed changes would be a decrease in the square footage for the units, and the orientation of the units fronting North Limestone has changed. He then said that what is driving this change is the on-site detention concept. He pointed out the location of the existing basin and said that, unlike the approved development plan, the existing basin will remain in place and the new basin will be substantially reduced in size. The new drainage basin will be between the adjacent homes along Rosemary Avenue and the proposed warehouses. He noted that the proposed changes to the drainage concept and the use of the existing drainage basin had been approved by the Division of Engineering.

Mr. Sallee said that the minor amendment is now proposing to reduce the square footage from 28,500 sq. ft to 26,800 sq. ft; and to slightly relocate the access to the north. Directing the Commission's attention to the November 18, 2010, minutes, he said that the architectural features proposed had been depicted, and it was noted in the minutes that the petitioner would be willing to commit to develop this property in substantial conformance with the rendering that was presented at that time. He then said that the architect had stated that the exterior of the building would be constructed of tinted split-face block and stucco, and would be somewhat similar to the material used at the new CVS Drug Store.

Mr. Sallee directed the Commission's attention to the last page of November, 2010 minutes, and said that there were 14 conditional zoning restrictions imposed at the time of rezoning. He said that the current development plan does identify a landscape buffer area, as does the minor amendment; however, the minor amendment now proposes to move the second tier of landscaping material further back from North Limestone. He then said that the staff does not believe that this will purport to the conditional zoning restriction #14(d)(2). The second tier would need to move toward North Limestone to maintain the trees 15' on center and this is reflected in the staff recommendation (condition #2). He said that the Planning staff had also added a new condition (#14) to denote that the buildings would be facing North Limestone Street, and the architectural detail of the buildings would be utilized.

Mr. Sallee then directed the Commission's attention to the original schematic of the proposed warehouses and said that it was the staff's belief that the Commission's action required this development to mirror what is shown on this rendering. He then said that, in essence, the row of buildings along North Limestone has shifted 90 degrees and one additional building had been added to the proposal. This is not what was originally approved by the Commission. He noted that when this proposal was approved, the buildings along North Limestone were about 170 feet in length and the minor amendment now orients the end of the building to north Limestone (only 100 feet), which is a significant change to what was originally approved.

Mr. Sallee said that the architectural details of this project had been discussed at length during the November 18, 2010, hearing, partly because the staff was not in favor of the rezoning of this property; but also due to the recommendations from the Central Sector Small Area Plan. He directed the Commission's attention to the Implementation Table (page 96), and said that the list under the Infrastructure Recommendations, Item #1 reads: "Increase physical, visual and perceived connections between retail corridor and residential areas." He then said that this was one of the main issues with this proposal and this property has almost as much commercial neighboring properties as it does residential neighboring properties. It was clear that this property was the transition between these two uses. He noted that there are elements that encouraged the commercial uses to orient the businesses toward the streets, which can be founded in the Subarea Priorities (page 71).

Mr. Sallee then said that the staff is recommending that the building elevations be noted on the development plan (condition #3), as well as reposition the buildings along North Limestone back to what was approved at the November 18, 2010, hearing (condition #4). He noted that, should the Commission approve this request, the buildings along North Limestone would be turned 90 degrees and the proposed access would need to be moved south. This change would then need the Urban County Traffic Engineer's approval (condition #1).

To conclude his presentation, Mr. Sallee directed the Commission's attention to Article 21-7(b), and said that the staff can refer a minor amendment to the Commission should there be significant issues. He then said that, given the history of this property, the staff felt it was important to refer this request back to the Commission, rather than let it remain a staff item.

Commission Questions – Mr. Cravens asked if the staff is suggesting that the buildings be turned back 90 degrees along North Limestone. Mr. Sallee replied affirmatively, and said that the staff is recommending that the buildings return to what was approved by the Commission. Mr. Cravens then asked if there will be a unit lost. Mr. Sallee said that, by keeping the basin, it is possible that a unit would be lost due to the easement and the conditional zoning restrictions related to the setback.

Mr. Owens said that he did not recall the orientation of the buildings being discussed at the Subdivision Committee meeting, and asked if this is a new development. Mr. Sallee said that, in addition to the architectural information, the orientation of the building was the main reason the staff presented this request to the Subdivision Committee. He then said that the orientation of the building is such a change from what the Commission had reviewed at the November, 2010 hearing, the staff wanted to refer this request back to the Planning Commission for consideration.

Ms. Copeland asked if the buildings were returned back to the original orientation, if the square footage was the same on both proposals. Mr. Sallee said that it is very likely that one of the 30' X 50' units would be lost if the buildings were returned back to the original orientation. Ms. Copeland asked if the unit in the corner had doubled in size. Mr. Sallee replied that was correct. Ms. Copeland indicated that she is not asking about the number of units being lost, rather whether or not the square footage would be lost. Mr. Sallee said that, given the location of the easement and the odd building orientation, it is likely that one of the 30' X 50' units would be lost. Ms. Copeland said that that is not counting the unit being lost due to either the overhead or the sewer easement. Mr. Sallee replied that was correct, and said that the approved development plan identifies a building over the easement. Ms. Copeland said that it is not due to the buildings being turned around, but rather due to the overhead utility and sewer easement through this property. Mr. Sallee replied affirmatively, and said that it also due to the existing basin on the property.

Representation – Andy Holmes, Midwest Engineering, was present. He thanked the staff for their thorough presentation on the proposed changes and added that, in addition to the drainage, there is an existing sewer line coming through this corridor that they do not want to disturb. He said that on the original development plan, the sewer line was proposed to be removed and rerouted around the buildings. However, in order for the drainage design to work properly, there would have been a significant cut at the rear of the property, creating a 12' elevation difference.

Mr. Holmes said that the driving force behind the proposed changes to the building orientation was greater public safety. He then said that the original development plan created a less visible confined area on the property, which would have been conducive to less than desirable activity. The property owner owns several houses in the area, and he is not planning to flip and sell this property. He said that the property owner felt the original development plan was not safe for the public or the nearby neighborhood, and they believe the proposed changes to this development would provide a safer environment.

Mr. Holmes said that the landscaping along North Limestone had been shown in plan view and on the cross-section; and the intent for the landscaping was to match what was originally approved. He then said that if the amended development plan does not clearly express that intention, they will make the changes that are needed. The building orientation is a very important part of the proposed changes.

Commission Questions – Mr. Owens asked if it is the applicant's preference to orient the buildings as shown on the minor amendment, and remove condition #4. Mr. Holmes replied affirmatively. Mr. Owens thanked the applicant for submitting the revised architectural design, and asked if the applicant is in agreement with the staff's rendering of the architectural design presented by Mr. Sallee. Mr. Holmes said that they do not prefer that design, but they would accept it.

Mr. Cravens asked if the previously submitted architectural design is what the applicant is now proposing. Mr. Holmes replied affirmatively, and said that the rendering is based upon the existing building lines that were developed for the property. Mr. Cravens said that more than just buildings were being moved, the site is being redesigned. Mr. Holmes said that that is correct.

Ms. Copeland asked where the overhead doors are located. Mr. Holmes said that the overhead doors will be facing the parking lot. Ms. Copeland said that that is exactly what was not permitted on the original development plan. Mr. Holmes said that the original development plan showed the overhead doors facing the parking lot, as well. Ms. Copeland replied that that was not the case for the units facing North Limestone. Mr. Holmes said that there is no parking lot on North Limestone. Ms. Copeland said that the original development plan did not show any overhead doors from the street; and with the revised submission, the overhead doors are visible from North Limestone. Mr. Holmes said that the revised submittal shows 3 units facing the street and those are set back 100 feet into the property. He then said that the overhead doors weren't as visible on the original plan, but could still be seen from the street.

Mr. Cravens asked if the applicant is willing to use the same architectural design that was originally approved. Mr. Holmes replied affirmatively. Mr. Cravens then asked if that included not using the metal siding material that is now being proposed. Mr. Holmes indicated that was correct, and said that they will have split-faced block and stucco facing North Limestone. Mr. Cravens said that the rendering indicates metal material would be used for the remaining units. Mr. Holmes replied affirmatively. Mr. Cravens said that he had asked this same question at the November, 2010 meeting, and the Commission was pretty adamant about this proposal having a Gateway look. He then said that the original submittal had indicated that the same material would be used continuously around the buildings. Mr. Cravens asked if the applicant would be agreeable to that same request. Mr. Holmes asked why have restrictions if the buildings are not exposed to the street. Mr. Cravens said that the building can be seen from all directions. Mr. Holmes said that they are willing to use split-faced block and stucco wherever it needs to go.

Mr. Wilson said that he agreed with Mr. Cravens' comments, noting that, in comparing both development plans, one rendering has a quality look to it, whereas the other rendering does not. He indicated that he liked the rendering that shows a quality look; and from what he understands, the applicant is willing to develop this property with a quality look. He asked if that is what Mr. Holmes is saying. Mr. Holmes replied that Mr. Wilson was correct.

Commission Discussion - Ms. Copeland said that she had visited this site, and this project is not following the intent of the Central Sector Small Area Plan. She recommended that this item be postponed to allow everyone who collaborated on this document to meet and come to an agreement that would benefit all parties. Ms. Copeland submitted a section of the Central Sector Small Area Plan; an aerial photograph of the surrounding area; the rendering of the approved development plan and a rendering of the proposed development plan, and briefly described each of these submittals. She said that the Central Sector Small Area Plan was adopted in 2009, and the creation of this plan took a lot of time and work on the part of many people. She then said that, since there were several people involved with the Central Sector Small Area Plan, in respect for their efforts, they should be informed of this request.

Ms. Copeland then said that, in looking at the aerial photograph, there are a soccer field and small commercial areas not too far from this proposal. She then said that throughout this area there is a natural setback from the street to houses, and the intent of the Central Sector Small Area Plan was to keep this setback for the rest of the street frontage. She said that on the approved development plan, the overhead doors were slightly visible from North Limestone; but on the minor amendment, the overhead doors' visibility has increased 100 percent. She then said that the neighborhood did not want to see blacktop, and this is the reason for the setback on North Limestone. The intent of the Central Sector Small Area Plan is not being followed, and to not include those who worked on it was not appropriate.

Mr. Owens asked if this is a minor amendment. Mr. Sallee replied that this plan meets all requirements for a minor amendment and was filed for the staff to review and consider.

Action - A motion was made by Mr. Cravens, to approve DP 2012-16: WALLER PROPERTY (AMD), subject to the following conditions:

1. Urban County Traffic Engineer's approval of street cross-sections and access.
2. Revise the landscaping detail along North Limestone, per conditional zoning restrictions and the current Final Development Plan.
3. Addition of building elevations along North Limestone Street, per information provided to the Commission on November 18, 2010.
4. ~~Revise building orientation 90 degrees along North Limestone Street.~~

Discussion of Motion - Mr. Cravens added that the same architectural features that were submitted with the original approval should be used continuously around the buildings, noting that no metal material should be used.

Mr. Owens clarified that condition #3 would reflect the staff exhibit that was previously distributed to the Commission, and asked Mr. Cravens if that was correct. Mr. Cravens said that the applicant's rendering showed metal on the buildings and he wanted the buildings to have split-faced block and stucco all the way around. Mr. Owens noted that the original approval had proposed a split-faced block and stucco on the buildings.

Mr. Wilson asked if it was Ms. Copeland's suggestion for this item to be postponed to allow it to be reviewed by a Committee. Ms. Copeland asked if the deadline on this request would allow this item to be postponed one month. Mr. Sallee replied affirmatively. Ms. Copeland said that if this item were postponed, it would allow everyone who collaborated on the Central Sector Small Area Plan to voice any concerns and discuss this request. She then asked, if the recommendations are not being followed why do a small area plan.

Ms. Roche-Phillips asked if Mr. Holmes had spoken with the neighborhood association. Mr. Holmes replied negatively.

The motion failed due to a lack of second.

Action - A motion was made by Ms. Copeland, seconded by Mr. Penn, to continue DP 2012-16 to the May 10, 2012, Planning Commission meeting.

Discussion of Motion - Ms. Roche-Phillips said that in consideration of the time line, she asked if Mr. Holmes could fulfill the Commission's request within a two-week window; and if so, she asked if the motion could be amended. Mr. Holmes replied affirmatively. Ms. Copeland and Mr. Penn agreed to amend their motion.

Mr. Cravens said that he sees no reason to postpone this item since the applicant can pull permits and begin construction. He then said that, more than likely, the applicant had started construction and realized minor changes needed to be made, which is what brought them back to the Commission. He noted that at the meeting in 2010, there was no one present to voice any concerns. He said that the applicant had agreed on the same architectural features that were previously submitted and he sees no reason to hold this request any further.

Mr. Owens said that the people who were present at the 2010 meeting were speaking to the approval of a zone change and not to the development plan itself.

The motion carried 6-1 (Cravens opposed, Berkley abstain; Beatty and Blanton absent).

VI. **COMMISSION ITEM** – The Chair will announce that any item a Commission member would like to present will be heard at this time.

A. **PLANNING COMMISSION BY-LAWS AMENDMENT** – The Chair will announce that the Commission will consider making a few changes to their By-laws to allow for time limitations to be imposed on public input with regard to contested subdivision and development plans.

Action: A motion was made by Ms. Brewer, seconded by Ms. Roche-Phillips, and carried 8-0 (Beatty and Blanton absent) to approve the by-laws as amended and presented by Mr. Owens.

VII. **STAFF ITEMS (continued)** –

A. **UPCOMING WORK SESSION** – Mr. King reminded the Commission members of the upcoming work session scheduled for April 19, 2012.

VII. **AUDIENCE ITEMS** – Citizens may bring a planning related matter before the Commission at this time for general discussion or future action. Items that will NOT be heard are those requiring the Commission's formal action, such as zoning items for early rehearing, map or text amendments; subdivision or development plans, etc. These last mentioned items must be filed in advance of this meeting in conformance with the adopted filing schedule.

VIII. **NEXT MEETING DATES**

Work Session, Thursday, 1:30 p.m., 2 nd Floor Council Chambers	April 19, 2012
Technical Committee, Wednesday, 8:30 a.m., Planning Division Office (Phoenix Building)	April 25, 2012
Zoning Items Public Hearing , Thursday, 1:30 p.m., 2 nd Floor Council Chambers	April 26, 2012
Subdivision Committee, Thursday, 8:30 a.m., Planning Division Office (Phoenix Building)	May 3, 2012
Zoning Committee, Thursday, 1:30 p.m., Planning Division Office (Phoenix Building).....	May 3, 2012
Subdivision Items Public Meeting , Thursday, 1:30 p.m., 2 nd Floor Council Chambers.....	May 10, 2012

IX. **ADJOURNMENT** - There being no further business, a motion was made to adjourn the meeting at 3:40 PM.

Mike Owens, Chair

Lynn Roche-Phillips, Secretary